IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Bail Appl..No. 5361 of 2007()

CRIME NO.227/2007 OF TOWN NORTH POLICE STATION, PALAKKAD

: PETITIONERS/ACCUSED:

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1. SAHADEVAN K., S/O.KRISHNAN,
   KARUKODY, MANNAM, VADAKANTHATA, PALAKKAD.

2. SIVAN, AGED 38 YEARS,
   S/O.KRISHNAN, KARUKODY, MANNAM,
   VADAKANTHATA, PALAKKAD.

3. P. KANNAN, S/O. PONNAN,
   KARUKODY, MANNAM,VADAKANTHATA, PALAKKAD.

BY ADV. SRI.SAJITH KUMAR V.

RESPONDENTS: STATE:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5361 of 2007

Dated this the 18th day of September, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1, 4 & 6. There are altogether 7 named accused and 3 others. The alleged incident took place on 19.08.07. The petitioners are named in the F.I.R. The crux of the allegations is that on account of prior animosity against the victim, the accused persons allegedly attacked him with dangerous weapons and caused serious injuries to the victim. The victim was taken to the Doctor immediately. An incised wound on the lateral side of the upper abdomen of the victim was caused. Profuse bleeding was present. Investigation is in progress. The co-accused have been arrested. The petitioners apprehend arrest at any moment.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. No specific overt acts are alleged against them. It was not the petitioners who inflicted any injury on the victim. The allegation is raised, inter alia, under Sections 308 and 323 I.P.C. The allegation under Section 308 I.P.C is raised without any sufficient reasons. The petitioners may, in these circumstances, be granted anticipatory bail, prays the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that sufficient data has been

collected by now, which indicate the complicity of the petitioners. The injury suffered is serious. The injury has been inflicted with dangerous weapons. Even before the Doctor the allegation has been raised that it was the 1st accused who attacked the victim. I have already taken note of the nature of the injury suffered.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor . This, I am satisfied, is a fit case where the petitioners must appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course. I find no features available in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-